

From: Jason Metz
To: Microsoft ATR
Date: 1/23/02 12:55pm
Subject: Proposed Microsoft settlement

January 23, 2002

Judge Colleen Kollar-Kotelly
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001

RE: US v. Microsoft proposed final order

Dear Judge Kollar-Kotelly,

First of all, I think that Microsoft is an excellent business and an American icon, and as such they should be encouraged to act in a way that we all be proud of. They are among the best corporations in the world at taking established technologies, packaging, and marketing them to the mainstream market. They are also, as the Department of Justice has proved, adept at the illegal use of their desktop OS monopoly to manipulate the access their competitors have to the desktop market.

As a user of computer products and a US citizen, I feel it my civic duty to comment on the proposed settlement, as I feel it has shortcomings. The settlement as it stands has been obviously crafted to avoid a structural remedy, and while it proposes some strong remedies in the area of conduct, I feel they are not enough to be effective in ensuring that Microsoft will not become a repeat offender.

Where is the penalty? Microsoft has enjoyed an enormous financial windfall through their decade of illegal practices, and now they are asked to donate \$1.4 billion of obsolete hardware running Windows to schools? This has been a marketing tactic used by both Microsoft and Apple for years. Increased familiarity with their products in the school translates to strong consumer preference in the years to come. Surely there can be some effective penalty arrived at that will not severely damage the US economy and yet will not be merely a marketing opportunity for the. This settlement, as proposed, sends a strong message to the computing industry that it is "business as usual" and will obviously represent less of a deterrent to Microsoft than their lawyers' fees.

Under the current version of the settlement, Microsoft appears be given broad discretion to deploy intellectual property claims to avoid opening up its monopoly operating system API and file formats. Based on their past performance, I do not believe this will be an effective solution. I think that Microsoft should be forced to standardize, disclose and license the entire set of Windows APIs and the file formats of its Office applications to any entity on a non-discriminatory basis, so that it will no longer be a secret how to interoperate with Windows. Any Microsoft networking protocols should be published in full and approved by an independent network protocol body to ensure the independence of the internet. I do not feel confidence in the tribunal as proposed and feel it should be more independent in nature.

I hope the Department of Justice has been following the revising of Microsoft's Windows XP business liscensing scheme following undertarget acceptance by the business community. Industry is saying they will not be gouged as Microsoft moves to an ASP model. There is a similar remedy for the average consumer (ie. to stick with Windows2000), but for how long? There must be interoperability and

backwards compatibility assurances included in this settlement to ensure that Microsoft does not use new applications to leverage the adoption of their new, more lucrative, revenue model.

I close in saying that I appreciate the hard work and consideration that the Department of Justice has given this matter on behalf of myself and all Americans. It is vital to the national interest that innovation and business opportunity at all scales of entry be preserved in the face of Microsoft's current domination of the desktop.

Please consider these and other criticisms of the settlement proposal, and procede as your conscience dictates, keeping in mind the trust we all place in you.

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